

Message Text

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ORIGIN L-03

INFO OCT-01 ARA-10 ISO-00 PM-04 MC-02 SS-15 AID-05 IGA-02

DODE-00 EB-07 NRC-07 NSAE-00 USIA-15 TRSE-00 ERDA-07

CIAE-00 COME-00 NSC-05 INR-07 NSCE-00 SSO-00 USIE-00

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DRAFTED BY L/PM:TABOREK:RF

APPROVED BY PM/SAS - DJJAMES

ARA/LA/PLC - COL. QUIGG

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FM SECSTATE WASHDC

TO AMEMBASSY QUITO IMMEDIATE

INFO USCINCSO IMMEDIATE

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EO. 11652:GDS

TAGS: MASS, EC

SUBJ: IMPLEMENTATION OF NEW STATUTORY CONDITION OF
ELIGIBILITY FOR MAP TRAINING

1. RECENTLY ENACTED INTERNATIONAL SECURITY ASSISTANCE AND
ARMS EXPORT CONTROL ACT OF 1976 AMENDS SECTION 505(A) OF
FAA, CONCERNING CONDITIONS OF MAP ELIGIBILITY, SO AS TO MAKE
EXISTING LIMITATIONS ON USE AND TRANSFER OF USG FURNISHED
DEFENSE ARTICLES APPLICABLE AS WELL TO QUOTE RELATED
TRAINING AND OTHER DEFENSE SERVICES UNQUOTE. THIS NEW
PROVISION, EFFECTIVE JULY 1, 1976, REQUIRES THAT WE OBTAIN
AGREEMENT FROM GOE, AS RECIPIENT OF GRANT TRAINING, TO
EFFECT THAT GOE WILL, INTER ALIA, USE SUCH TRAINING AND
SERVICES ONLY FOR PURPOSES FOR WHICH FURNISHED, WILL MAIN-
TAIN SECURITY OF SUCH TRAINING AND SERVICES, AND WILL NOT
TRANSFER SUCH TRAINING OR SERVICES TO THIRD PARTIES WITHOUT
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PRIOR USG CONSENT.

2. TEXT OF AMENDED SECTION 505(A) READS AS FOLLOWS:

QUOTE: (A) IN ADDITION TO SUCH OTHER PROVISIONS AS THE
PRESIDENT MAY REQUIRE, NO DEFENSE ARTICLES OR RELATED

TRAINING OR OTHER DEFENSE SERVICE SHALL BE FURNISHED TO
ANY COUNTRY ON A GRANT BASIS UNLESS IT SHALL HAVE AGREED
THAT --

--- (1) IT WILL NOT, WITHOUT THE CONSENT OF THE
PRESIDENT --

(A) PERMIT ANY USE OF SUCH ARTICLES OR RELATED
TRAINING OR OTHER DEFENSE SERVICE BY ANYONE NOT AN OFFICER,
EMPLOYEE, OR AGENT OF THAT COUNTRY,

--- (B) TRANSFER, OR PERMIT ANY OFFICER, EMPLOYEE, OR
AGENT OF THAT COUNTRY TO TRANSFER SUCH ARTICLES OR RELATED
TRAINING OR OTHER DEFENSE SERVICE BY GIFT, SALE, OR OTHER-
WISE OR

--- (C) USE OR PERMIT THE USE OF SUCH ARTICLES OR
RELATED TRAINING OR OTHER DEFENSE SERVICE FOR PURPOSES
OTHER THAN THOSE FOR WHICH FURNISHED;

--- (2) IT WILL MAINTAIN THE SECURITY OF SUCH ARTICLES
OR RELATED TRAINING OR OTHER DEFENSE SERVICE AND WILL PRO-
VIDE SUBSTANTIALLY THE SAME DEGREE OF SECURITY PROTECTION
AFFORDED TO SUCH ARTICLES OR RELATED TRAINING OR OTHER
DEFENSE SERVICE BY THE UNITED STATES GOVERNMENT;

--- (3) IT WILL, AS THE PRESIDENT MAY REQUIRE, PERMIT
CONTINUOUS OBSERVATION AND REVIEW BY, AND FURNISH
NECESSARY INFORMATION TO, REPRESENTATIVES OF THE UNITED
STATES GOVERNMENT WITH REGARD TO THE USE OF SUCH ARTICLES
OR RELATED TRAINING OR OTHER DEFENSE SERVICE; AND

--- (4) UNLESS THE PRESIDENT CONSENTS TO OTHER DIS-
POSITION, IT WILL RETURN TO THE UNITED STATES GOVERNMENT
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FOR SUCH USE OR DISPOSITION AS THE PRESIDENT CONSIDERS IN
THE BEST INTERESTS OF THE UNITED STATES, SUCH ARTICLES OR
RELATED TRAINING OR OTHER DEFENSE SERVICE WHICH ARE NO
LONGER NEEDED FOR THE PURPOSES FOR WHICH FURNISHED. END
QUOTE.

3. EMBASSY SHOULD NOTE FOLLOWING GENERAL INFORMATION ABOUT
THIS NEW REQUIREMENT:

A. IT IS A CONDITION OF ELIGIBILITY FOR THE FURNISHING ON
A GRANT BASIS OF FURTHER MAP MATERIEL AND SERVICES, OR
FURTHER TRAINING RELATED TO THE USE OF MAP OR FMS ORIGIN
MATERIEL OR SERVICES UNDER THE NEW INTERNATIONAL MILITARY

EDUCATION AND TRAINING CHAPTER OF THE FAA. IT DOES NOT

AFFECT ELIGIBILITY FOR PURCHASE OF DEFENSE ARTICLES AND DEFENSE SERVICES UNDER FMS. (A SIMILAR STATUTORY REQUIREMENT FOR FMS ELIGIBILITY WILL BE IMPLEMENTED SEPARATELY THROUGH AN AMENDMENT TO THE STANDARD FORM FMS CONTRACT.)

B. IT REQUIRES AGREEMENT OF RECIPIENT TO OBSERVE ABOVE-DESCRIBED CONDITIONS WITH RESPECT TO TRAINING OR SERVICES RELATED TO U.S. FURNISHED ARTICLES, NO MATTER WHEN SUCH ARTICLES, TRAINING, OR SERVICES WERE FURNISHED.

C. AS A CONDITION OF ELIGIBILITY, THIS NEW STATUTORY REQUIREMENT WILL PRECLUDE USE OF APPROPRIATED FUNDS UNTIL REQUISITE AGREEMENT IS OBTAINED FOR NEW GRANTS OF MATERIEL AND SERVICES- NEW EQUIPMENT-RELATED TRAINING STARTS FOR COUNTRIES WITH WHICH EXISTING AGREEMENTS DO NOT MEET NEW REQUIREMENT. PENDING FINAL AGREEMENT, WE CONSIDER THAT WE WILL BE ABLE TO JUSTIFY CONTINUATION OF TRAINING IN PROGRESS, INCLUDING INTRODUCTION OF NEW STUDENTS INTO ONGOING PROGRAMS. HOWEVER, OUR AUTHORITY TO PROCEED IN ABSENCE OF AGREEMENT IS VERY REPEATEDLY VERY LIMITED AND IT IS IMPERATIVE THAT AGREEMENTS BE OBTAINED ASAP IN ORDER TO AVOID PROGRAM DISRUPTION AND, POSSIBLE, LOSS OF AVAILABLE FUNDS AT END OF TRANSITION QUARTER.

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D. THE NEW REQUIREMENT DOES NOT PROHIBIT TRAINING WHICH IS NOT RELATED TO U.S. FURNISHED DEFENSE ARTICLES. ACCORDINGLY, OTHER FORMS OF TRAINING (E.G., ACADEMIC COURSES) MAY CONTINUE AS SCHEDULED. NEVERTHELESS, IN IMPLEMENTING THE STATUTE, IT WILL AVOID SEVERAL DIFFICULTIES AND POSSIBLE MISUNDERSTANDINGS IF WE AVOID DISTINCTION BETWEEN EQUIPMENT-RELATED TRAINING AND OTHER TRAINING. ACCORDINGLY, USG WILL BE SEEKING TO OBTAIN AGREEMENTS WITH RECIPIENT COUNTRIES THAT APPLY TO TRAINING AND DEFENSE ARTICLES GENERALLY.

4. THE NEW LEGISLATION ALSO REQUIRES THAT, 30 DAYS PRIOR TO CONSENT BY THE UNITED STATES GOVERNMENT TO ANY SUCH PROPOSED TRANSFER, A REPORT BE SUBMITTED TO THE CONGRESS LISTING THE NAME OF THE COUNTRY PROPOSING TO MAKE THE TRANSFER, A DESCRIPTION OF THE DEFENSE ARTICLES OR RELATED TRAINING OR DEFENSE SERVICE AND ITS ORIGINAL ACQUISITION COST, THE NAME OF THE PROPOSED RECIPIENT, THE REASONS FOR THE PROPOSED TRANSFER, AND THE DATE ON WHICH THE TRANSFER IS PROPOSED TO BE MADE. THIS WRITTEN CERTIFICATION WILL BE UNCLASSIFIED, WITH THE POSSIBLE EXCEPTION OF THE VALUE AND NUMBER OF DEFENSE ARTICLES, OR RELATED TRAINING OR OTHER

DEFENSE SERVICES.

. PRIOR LAW DID NOT REQUIRE AS CONDITION OF ELIGIBILITY FOR MAP TRAINING AND SERVICES, AS OPPOSED TO MAP DEFENSE ARTICLES, THAT RECIPIENT AGREE TO CERTAIN TERMS AND CONDITIONS GOVERNING USE, TRANSFER, ETC. GOE TERMINATION OF MILITARY ASSISTANCE AGREEMENT IN FY 1970 HAD NOT HITHERTO AFFECTED ELIGIBILITY OF GOE FOR MAP TRAINING ONLY. NEVERTHELESS, SATISFACTION OF NEW STATUTORY REQUIREMENT NECESSITATES CONCLUSION OF NEW AGREEMENT GOVERNING TRAINING AND SERVICES. ACCORDINGLY, EMBASSY REQUESTED TO SEEK SUCH AGREEMENT THROUGH EXCHANGE OF NOTES ALONG LINES OF TEXT SET OUT BELOW.

6. TEXT OF SUGGESTED NOTE FOLLOWS:

BEGIN TEXT: THE EMBASSY OF THE UNITED STATES OF AMERICA
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PRESENTS ITS COMPLIMENTS TO THE (MINISTRY OF FOREIGN AFFAIRS) OF THE GOVERNMENT OF ECUADOR AND HAS THE HONOR TO REFER TO RECENTLY ENACTED PROVISIONS OF UNITED STATES LAW AFFECTING ELIGIBILITY FOR U.S. MILITARY ASSISTANCE AND TRAINING.

THE PROVISIONS OF THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976 ESTABLISH NEW STATUTORY AUTHORITY FOR MILITARY EDUCATION AND TRAINING WHICH HERETOFORE HAS BEEN FURNISHED BY THE UNITED STATES GOVERNMENT AS A DEFENSE SERVICE UNDER ITS MILITARY ASSISTANCE PROGRAM. IN ADDITION, THEY PROHIBIT THE FURNISHING OF SUCH TRAINING UNLESS THE RECIPIENT COUNTRY AGREES THAT IT WILL OBSERVE CERTAIN CONDITIONS REGARDING SUCH TRAINING. THESE CONDITIONS ARE THAT, WITHOUT THE CONSENT OF THE UNITED STATES GOVERNMENT, THE RECIPIENT COUNTRY WILL NOT PERMIT THE USE OF SUCH SERVICES OR TRAINING BY ANYONE NOT AN OFFICER, EMPLOYEE, OR AGENT OF THAT COUNTRY; THAT IT WILL NOT TRANSFER OR PERMIT THEIR TRANSFER BY GIFT, SALE, OR OTHERWISE; THAT IT WILL NOT USE THEM OR PERMIT THEIR USE FOR PURPOSES OTHER THAN THOSE FOR WHICH FURNISHED; THAT IT WILL MAINTAIN THEIR SECURITY; THAT IT WILL PERMIT CONTINUOUS OBSERVATION AND REVIEW BY UNITED STATES GOVERNMENT REPRESENTATIVES REGARDING THEIR USE; AND THAT, UNLESS THE UNITED STATES GOVERNMENT CONSENTS TO OTHER DISPOSITION, IT WILL RETURN THEM TO THE UNITED STATES GOVERNMENT WHEN NO LONGER NEEDED.

IN ORDER TO IMPLEMENT THIS LAW, AND TO PRESERVE THE

ELIGIBILITY OF THE GOVERNMENT OF ECUADOR FOR MILITARY TRAINING THEREUNDER, IT IS PROPOSED THAT THE GOVERNMENT OF ECUADOR PROVIDE THE FOLLOWING ASSURANCES:

1. THAT IT WILL NOT, WITHOUT THE CONSENT OF THE UNITED STATES GOVERNMENT

A. PERMIT ANY USE OF SERVICES OR TRAINING, FURNISHED BY THE UNITED STATES GOVERNMENT BY ANYONE NOT AN OFFICER, EMPLOYEE, OR AGENT OF THE GOVERNMENT OF ECUADOR;
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B. TRANSFER OR PERMIT ANY OFFICER, EMPLOYEE, OR AGENT OF THE GOVERNMENT OF ECUADOR TO TRANSFER SUCH SERVICES OR TRAINING BY GIFT, SALE, OR OTHERWISE, OR

C. USE OF PERMIT THE USE OF SUCH SERVICES OR TRAINING FOR PURPOSES OTHER THAN THOSE FOR WHICH FURNISHED BY THE UNITED STATES GOVERNMENT.

2. THAT IT WILL MAINTAIN THE SECURITY OF SUCH SERVICES OR TRAINING AS ARE FURNISHED BY THE UNITED STATES GOVERNMENT; AND WILL PROVIDE SUBSTANTIALLY THE SAME DEGREE OF SECURITY PROTECTION AFFORDED TO SUCH SERVICES OR TRAINING BY THE UNITED STATES GOVERNMENT.

3. THAT IT WILL, PERMIT CONTINUOUS OBSERVATION AND REVIEW BY, AND FURNISH NECESSARY INFORMATION TO, REPRESENTATIVES OF THE UNITED STATES GOVERNMENT WITH REGARD TO THE USE OF SUCH SERVICES OR TRAINING AND

4. THAT IT WILL RETURN TO THE UNITED STATES GOVERNMENT SUCH SERVICES OR TRAINING MATERIALS FURNISHED ON A GRANT BASIS AS ARE NO LONGER NEEDED FOR THE PURPOSES FOR WHICH FURNISHED, UNLESS THE UNITED STATES GOVERNMENT CONSENTS TO OTHER DISPOSITION.

IT IS FURTHER PROPOSED THAT THE MINISTRY'S REPLY STATING THAT THE FOREGOING IS ACCEPTABLE TO THE GOVERNMENT OF ECUADOR SHALL, TOGETHER WITH THIS NOTE, CONSTITUTE AN AGREEMENT BETWEEN THE GOVERNMENTS ON THIS SUBJECT, TO BE EFFECTIVE FROM THE DATE OF THE MINISTRY'S NOTE IN REPLY.
(COMPLIMENTARY CLOSE)

7. ADDRESSEES AUTHORIZED TO NEGOTIATE AND CONCLUDE EXCHANGE OF NOTES USING FOREGOING TEXT. ANY PROPOSED SUBSTANTIVE CHANGES SHOULD BE REFERRED TO THE DEPARTMENT

FOR PRIOR APPROVAL.
OR PRIOR APPROVAL.
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8. PLEASE REPORT BY TELEGRAM (ATTENTION PM/SAS) WHEN

NOTES EXCHANGED, AND TRANSMIT ORIGINAL OF MINISTRY NOTE
AND CERTIFIED COPY EMBASSY NOTE TO DEPARTMENT (L/T) PER
11 FAM 700. ROBINSON

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<< END OF DOCUMENT >>

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Margaret P. Grafeld
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